

# **EXHIBIT B**

3/3/2025

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STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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RICHARD KADREY, ET AL., )

Individual and Representative )

Plaintiffs, ) Lead Case No.

v. ) 3:23-cv-03417-VC

META PLATFORMS, INC., )

Defendant. )

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\* \* \* HIGHLY CONFIDENTIAL \* \* \*

\* \* \* ATTORNEYS' EYES ONLY \* \* \*

VIDEO-RECORDED 30(b)(6) DEPOSITION OF

MICHAEL CLARK (torrenting)

MONDAY, MARCH 3, 2025

DENVER, COLORADO

10:20 A.M. MST

REPORTED BY KATHY L. DAVIS, CRR, RMR

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1           The FAIR cluster, which is where this is,  
2   was one of the places that that team would do work  
3   from. And for expediency used AWS for torrenting  
4   from.

5           Q       Did Meta use AWS when it did direct  
6   downloads of LibGen?

7           MR. WEINSTEIN: Object to form, outside  
8   the scope.

9           A       Could you be more specific of when?

10          Q       (BY MS. POUEYMIROU) I'll strike that.  
11                  Okay. So did you speak with Guillaume  
12   Lample?

13          A       Guillaume?

14          Q       Mm-hmm.

15          A       I did not.

16          Q       Okay.

17          A       Guillaume is no longer with the company.

18          Q       Okay. Were you personally involved in  
19   approving the decision to torrent data from LibGen?

20          A       The -- to go back to my prior testimony  
21   about -- there was a process in place to evaluate  
22   datasets to determine if they could be used as part  
23   of training. That process approved the portions of  
24   LibGen to be able to be used for training. That  
25   specific review process did not approve or nor

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1 disapprove the -- how that data was collected.

2 Q To -- so are you saying that the decision  
3 to torrent the data rather than directly download the  
4 data was not a consideration for approving the use of  
5 the dataset?

6 MR. WEINSTEIN: Object to form.

7 A I apologize. Could you repeat that  
8 or . . .

9 Q (BY MS. POUEYMIROU) My question is, for  
10 the data approval process --

11 A Yes. The dataset approval process?

12 Q -- yes, for LibGen, was torrenting noted  
13 in that approval process and approved by Meta?

14 MR. WEINSTEIN: Object to form. And I  
15 don't know to the extent applicable, but if it  
16 implicates any attorney-client communications or  
17 substantive communications with counsel, I would ask  
18 you to exclude those from your response.

19 A The approval was for the use of the  
20 training data. The approval did not include --  
21 neither approved nor disapproved of the mechanism by  
22 which the data was collected.

23 Q (BY MS. POUEYMIROU) Before you received  
24 the deposition notice and were told that you were  
25 going to testify today on behalf of Meta for

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1 A Not that I am aware of.

2 Q When did Meta's torrenting of Anna's  
3 Archive end?

4 A In conversations with Xiaolan, it was  
5 somewhere between April and June of 2024. And as far  
6 as I know, those completed in June of 2024.

7 Q So Meta began torrenting in April and  
8 completed its torrenting in June?

9 A For the work that Xiaolan was doing, yes.

10 Q So it was two months of torrenting --  
11 MR. WEINSTEIN: Object. Object to form.

12 Q (BY MS. POUEYMIROU) -- or thereabouts?

13 A It was -- the job would be started and  
14 then other pieces, so two months.

15 Q How many computers?

16 A There were -- I'd have to refresh my  
17 conversation with Xiaolan. If I'm remembering  
18 correct, it was six VPCs that were configured, but I  
19 believe that is also reflected in the expert report  
20 that I can go look at as well.

21 Q So six computers running in parallel were  
22 torrenting data from Anna's Archive?

23 A Six machines were configured in order to  
24 be able to tur -- to torrent. They were not always  
25 running in parallel.

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1 Q Okay. So it seems --

2 A That --

3 Q Would it be fair to say that if you  
4 wanted to understand Meta's torrenting from April to  
5 June --

6 A Yes.

7 Q -- of works encompassed by Anna's  
8 Archive, Xiaolan Wang would be the person you would  
9 want to speak with?

10 MR. WEINSTEIN: Object to form.

11 A That is correct.

12 Q (BY MS. POUEYMIROU) Was she the head of  
13 that project?

14 MR. WEINSTEIN: Object to form.

15 A She was the engineer that did the actual  
16 downloading. I don't know what you mean by "the head  
17 of that project."

18 Q (BY MS. POUEYMIROU) Were other employees  
19 at Meta torrenting work from Anna's Archive or was  
20 this Xiaolan's project that she oversaw singularly?

21 A That was Xiaolan's project that she was  
22 working on.

23 Q Who approved the use of torrenting for  
24 Anna's Archive?

25 MR. WEINSTEIN: Object to form.

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1           A       There is no approval or disapproval that  
2       I am aware of for torrenting.

3           Q       (BY MS. POUEYMIROU)   Would you call the  
4       creation of the 60-second script that Bashlykov made  
5       a copyright mitigation?

6                   MR. WEINSTEIN:   Object to form.   Outside  
7       the scope of this part of the deposition.

8                   MS. POUEYMIROU:   Fair.

9           A       It was not -- and then we'll talk about  
10       this in the other section.   But it was not a specific  
11       mitigation that had been applied --

12          Q       (BY MS. POUEYMIROU)   Okay.

13          A       -- or that had been designated.

14          Q       Okay.   So I wanted to actually go back in  
15       time to September/October of 2022 to a man called Gui  
16       in our previous deposition.   Who was that; do you  
17       recall?

18          A       Guillaume?

19          Q       And Guillaume was the first Meta  
20       employee, as far as we know, who copied data from  
21       LibGen; is that correct?

22          A       It was understood that Guillaume had done  
23       work with LibGen, but we have not been able to track  
24       down any evidence of what had been downloaded or been  
25       able to find that -- any more details.

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1 MR. WEINSTEIN: Object to form.

2 A The factual statement was AWS not  
3 allowing torrenting, and AWS does not block  
4 torrenting was what I was representing. I didn't  
5 make any statement otherwise.

6 Q (BY MS. POUEYMIROU) It's possible to  
7 torrent data that is not pirated, correct?

8 MR. WEINSTEIN: Object to form.

9 A Torrenting is used for a broad use of  
10 applications from downloading large patches or  
11 operating systems to sharing other kinds of files.

12 Q (BY MS. POUEYMIROU) And was there any  
13 policy at Meta about torrenting data, as you've just  
14 described, versus torrenting data known to come from  
15 pirated online databases?

16 MR. WEINSTEIN: Object to form.

17 A To be specific, I am not aware of any  
18 policy that Meta has around torrenting.

19 Q (BY MS. POUEYMIROU) Okay.

20 MS. POUEYMIROU: Can we pull out --

21 Q (BY MS. POUEYMIROU) And to be clear,  
22 when I asked you about conversations about torrenting  
23 and you spoke about counsel, that was in-house  
24 counsel; is that correct?

25 A That was correct.



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1 MS. POUEYMIROU: Okay. Can we pull out  
2 Tab 8, please.

3 (Clark Exhibit 5, marked for  
4 identification.)

5 MS. POUEYMIROU: And this is Exhibit --  
6 Clark Exhibit 5.

7 Q (BY MS. POUEYMIROU) Clark Exhibit 5 is  
8 Meta underscore Kadrey underscore 00204223. What is  
9 this document?

10 A It appears to be a Work Chat conversation  
11 between Nikolay and David Esiobu.

12 Q Did you talk to Mr. Bashlykov about this  
13 document?

14 MR. WEINSTEIN: Object to form.

15 A We had talked about this document for my  
16 prior preparation, not specifically for this one.

17 Q (BY MS. POUEYMIROU) Okay. You  
18 previously testified that Meta didn't have a policy  
19 on torrenting; is that correct?

20 A I am not aware of a policy on torrenting.

21 Q So why didn't Meta -- why didn't  
22 Bashlykov just torrent fiction, scientific textbooks,  
23 and scimag in April of 2023? Why only scimag?

24 MR. WEINSTEIN: Object to form.

25 Q (BY MS. POUEYMIROU) You said torrenting

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1 I know of in that group --

2 Q Okay.

3 A -- but I can't say for certain.

4 Q Why is Meta concerned about seeding files  
5 outside through torrenting -- when torrenting?

6 MR. WEINSTEIN: Object to form.

7 Again, I don't know if it's applicable,  
8 but exclude any communications with counsel from your  
9 response.

10 A That would have been on direction and  
11 guidance from counsel.

12 Q (BY MS. POUEYMIROU) And when you say  
13 that, do you mean in-house counsel?

14 A Yes.

15 Q So you're saying that when he says, "I am  
16 not" -- "this way I am not seeding...any of the files  
17 outside," you're saying that the concern about  
18 seeding was something counsel had told him to be  
19 concerned about?

20 MR. WEINSTEIN: Object to form, calls for  
21 speculation.

22 A Counsel had provided guidance. I don't  
23 know the specifics of that nor could speak to that  
24 specific guidance.

25 Q (BY MS. POUEYMIROU) And when you say

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1 counsel provided guidance, you're saying counsel  
2 provided guidance on best practices for torrenting?

3 MR. WEINSTEIN: Object to form, calls for  
4 speculation.

5 And also, again, as phrased, I don't  
6 think the witness can answer that question on the  
7 grounds of attorney-client privilege.

8 A I would not be able to share without  
9 exposing attorney-client privilege with in-house  
10 counsel.

11 Q (BY MS. POUEYMIROU) Okay. So does Meta  
12 have a policy about not seeding torrented data?

13 A Not that I am aware of.

14 Q So why did Bashlykov write script that  
15 we've been discussing?

16 MR. WEINSTEIN: Object to form.

17 A He wrote the script to perform the  
18 download functions via torrenting, as far as writing  
19 the overall script.

20 Q (BY MS. POUEYMIROU) The script that  
21 stopped seeding every 60 seconds?

22 A (Deponent nodded.)

23 Q If seeding was not risky --

24 A Yeah.

25 Q -- why did Mr. Bashlykov write a script

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1 to stop it?

2 MR. WEINSTEIN: Object to form, calls for  
3 speculation.

4 A I can't speak specifically to what  
5 guidance he may have received from counsel.

6 Q (BY MS. POUEYMIROU) So counsel directed  
7 him to write that script?

8 MR. WEINSTEIN: Object to form, misstates  
9 testimony, calls for speculation.

10 Again, I don't know if it's applicable or  
11 not, but you cannot reveal the substance of  
12 communications from counsel, whether directed to you  
13 or to someone else.

14 A How you phrased that question misstates  
15 what I had said. Would you like to repeat the  
16 question?

17 Q (BY MS. POUEYMIROU) Sure. Why did  
18 Mr. Bashlykov write that script that stopped seeding  
19 every 60 seconds?

20 MR. WEINSTEIN: Object to form.

21 A I do not know specifically why he created  
22 that.

23 Q (BY MS. POUEYMIROU) In this particular  
24 Workplace Chat he's seeking guidelines on what to do.  
25 You said that Meta has no policy on torrenting; is

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1 that correct?

2 MR. WEINSTEIN: Object to form. Asked  
3 and answered.

4 A I am not aware of any policy on  
5 torrenting.

6 Q (BY MS. POUEYMIROU) Does Meta have a  
7 policy on seeding --

8 MR. WEINSTEIN: Object to form.

9 Q (BY MS. POUEYMIROU) -- data?

10 MR. WEINSTEIN: Object to form.

11 Object to form.

12 A I am not aware of any policy on seeding  
13 of data.

14 Q (BY MS. POUEYMIROU) So you don't know  
15 why this script would have been created? Rather,  
16 this script was not made pursuant to a policy at  
17 Meta's?

18 MR. WEINSTEIN: Object to form, calls for  
19 speculation.

20 A Not that I'm aware of.

21 Q (BY MS. POUEYMIROU) Okay. And he asks  
22 for, "Do you [sic] have any guidelines on that?"  
23 I've been using the word "policy." Are there any  
24 guidelines that exist?

25 MR. WEINSTEIN: Object to form, calls for

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1 speculation.

2 A I am not aware of any guidelines. And  
3 the way I read this, it's broad to -- broad to the  
4 whole topic of "loading library/how it was parsed/  
5 ablation results" in the context of the whole  
6 sentence and conversation. But I don't have any  
7 specific details.

8 Q (BY MS. POUEYMIROU) He says that  
9 torrenting would make the data acquisition faster; is  
10 that correct?

11 MR. WEINSTEIN: Object to form.

12 A The way that I am reading the sentence,  
13 that some of the servers that he is trying to load  
14 from or some of the connections are throttled, and  
15 therefore it is his hypothesis that torrenting would  
16 be faster.

17 Q (BY MS. POUEYMIROU) Is torrenting a  
18 faster way to acquire data?

19 MR. WEINSTEIN: Object to form, calls for  
20 expert testimony.

21 A Not in all cases. It depends on -- it's  
22 situational.

23 Q (BY MS. POUEYMIROU) Why did Meta decide  
24 to torrent all of the data from Anna's Archive that  
25 it torrented, as opposed to directly download?

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1           A       So Meta only did a portion of Anna's  
2   Archive, and it torrented those portions. Some of  
3   the other pieces had been gotten through direct  
4   download. And so it's combination of.

5           Q       But what I am asking is, the 200  
6   terabytes of data that Ms. Frederiksen-Cross  
7   references in her report was data that was torrented,  
8   correct?

9           A       Those were the torrented portions of  
10   Anna's Archive.

11          Q       And my question is, when you have this  
12   concern about seeding, why not just directly download  
13   that data?

14                   MR. WEINSTEIN: Object to form.

15          A       As Mr. Bashlykov identified in his work,  
16   he was not able to directly download all of that  
17   content. And I -- I don't have specific answers as  
18   to why torrenting was chosen versus not on these  
19   three cases, if they had tried to do direct downloads  
20   or if those were even available.

21          Q       (BY MS. POUEYMIROU) Did you ask Xiaolan  
22   Wang?

23          A       I did not ask that specific question.

24                   MS. POUEYMIROU: Okay. Can we turn to  
25   Tab 23.

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1 STATE OF COLORADO )  
2 ) ss. REPORTER'S CERTIFICATE  
3 COUNTY OF DENVER )

4 I, Kathy L. Davis, do hereby certify that I am a  
5 Registered Professional Reporter within the State of  
6 Colorado; that previous to the commencement of the  
7 examination, the deponent was duly sworn to testify  
8 to the truth.

9 I further certify that this deposition was taken  
10 in shorthand by me at the time and place herein set  
11 forth, that it was thereafter reduced to typewritten  
12 form, and that the foregoing constitutes a true and  
13 correct transcript.

14 I further certify that I am not related to,  
15 employed by, nor of counsel for any of the parties or  
16 attorneys herein, nor otherwise interested in the  
17 result of the within action.

18 In witness whereof, I have affixed my signature  
19 this 4th day of March, 2025.

20

21

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Kathy L. Davis  
Certified Realtime Reporter